

# Thomas-Jensen Affirmation

## Exhibit # 86

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF RHODE ISLAND

STATE OF NEW YORK; et al.,

Plaintiffs,

v.

DONALD TRUMP, in his official capacity as  
President of the United States; et al.,

Defendants.

C.A. No. 1:25-cv-00039-JJM-PAS

**DECLARATION OF ELIZABETH GROGINSKY, CABINET SECRETARY OF THE  
NEW MEXICO EARLY CHILDHOOD EDUCATION AND CARE DEPARTMENT**

I, Elizabeth Groginsky, declare as follows:

1. I am a resident of the State of New Mexico. I am over the age of 18 and have personal knowledge of all the facts stated herein, except to those matters stated upon information and belief; as to those matters, I believe them to be true. If called as a witness, I could and would testify competently to the matters set forth below.
2. I am the Cabinet Secretary of the New Mexico Early Childhood Education and Care Department (ECECD), a position I have held since 2020. As Cabinet Secretary, I have oversight of all ECECD's program operations.
3. ECECD's mission is to optimize the health, development, education, and well-being of babies, toddlers, and preschoolers in New Mexico through a family-driven, equitable, community-based system of high-quality prenatal and early childhood programs and services.

4. As Cabinet Secretary, I have personal knowledge of the federal funding that is received by ECECD, or I have knowledge of the federal funding based on my review of information and records gathered by my staff.
5. In Fiscal Year 2025, ECECD is on track to receive \$147,154,200.00 of federal funds, which constitutes approximately 19% of ECECD's operating budget.
6. ECECD implements federal programs that rely on majority federal funding for their operation: the Child and Adult Care Food Program (CACFP), and the Summer Food Program under the United States Department of Agriculture and Head Start under the United States Department of Health and Human Services' Administration for Children and Families.
7. ECECD depends on federal funding to implement many of its programs, including:
  - a. Child Care Assistance, which is funded in part by the Child Care and Development Fund (CCDF) under the United States Department of Health and Human Services' Administration for Children and Families;
  - b. Maternal, Infant, and Early Childhood Home Visiting (MIECHV) Home Visiting, which is funded in part by Medicaid;
  - c. Social and Emotional Early Development (SEED) Initiative, which is funded in part by the Preschool Development Grant- Birth through Five (PDG-5) through the United States Department of Education; and
  - d. Family Infant Toddler Program, New Mexico's early intervention program for infants and toddlers under Part C of the Individuals with Disabilities Education Act (IDEA).
8. ECECD's estimated CCDF expenditures for the State Fiscal Year 2025 (July 1, 2024 to June 30, 2025) is \$94,223,404.00.

- a. On average, ECECD serves 30,601 children per month across the state of New Mexico, with services to 7,956 children being funded by CCDF funding.
9. ECECD's estimated CACFP and Summer Food Program expenditures for State Fiscal Year 2025 are \$49,318,264.00.
  - a. In State Fiscal Year 2025, ECECD served 34,559 children through the Summer Food Program, serving 732,798 total meals.
  - b. In State Fiscal Year 2025, ECECD served an average of 38,028 children and adults per month through the CACFP, serving an average of 1,414,324 meals per month.
  - c. If federal funding is not provided, thousands of low-income New Mexican children and vulnerable adults may not be able to access food, many of whom depend on ECECD's programming for food security.
10. ECECD's estimated MIECHV expenditures for State Fiscal Year 2025 is \$2,978,000.00.
  - a. In State Fiscal Year 2025, MIECHV contracted with 485 individual families.
  - b. In State Fiscal Year 2025, MIECHV has expended \$895,490.99, with a remaining balance of \$2,082,509.10 in federal funds.
  - c. Lack of continued federal funding jeopardizes ECECD's ability to provide important home visiting services to New Mexican families, which connects families to other resources in their community (for example WIC, Medicaid, employment and educational resources, housing support, parenting support classes, and resources on how to stop smoking)

- d. Without MIECHV services, families will not have access to the program, which aims to improve the overall health of mothers and children, gets children ready to succeed in school, and improves families' economic well-being.

11. ECECD's budget for this year has relied on assertions from the federal agencies listed above.

ECECD allocated funding for staffing, services, and contracted for services based on the anticipated \$147,154,200.00 of Federal funding promised through our federal grants for FY2025.

12. Many providers that ECECD contracts with to provide services on a reimbursement for service basis have expressed uncertainty regarding getting reimbursed for those services based on the recent funding pause. Those providers have also expressed concern about providing services on ECECD's behalf due to a possible lack of federal funds afforded to ECECD.

13. Additionally, unclear communication from federal agencies regarding the future security of federal funds has created confusion across all ECECD programs impacted by the funding pause.

14. Under ECECD's current federal grants, ECECD receives monthly disbursements of federal funds between \$7,000,000 and \$11,000,000. Disbursements made to ECECD are based on reimbursement for services already provided. For example, in January 2025, ECECD received reimbursement for services provided in November 2024.

15. The timing of the next expected disbursement of federal funds to ECECD should occur between the first and the fifteenth of February for services provided in December. If we do not receive such disbursements, it will create financial harm not only to ECECD, but to the providers that ECECD contracts with to provide important services to New Mexican children and families.
16. ECECD uses the Payment Management System (PMS) to draw down on federal funds received through the federal Department of Health and Human Services. On Monday, January 27, 2025, PMS displayed a notification that due to the impacts of the memorandum “Temporary Pause of Agency Grant, Loan, and Other Financial Assistance Programs,” Matthew J. Vaeth, Acting Director of the Office of Management and Budget (January 28, 2025) (“OMB Memo”), there would be possible delays on claims and draws submitted. PMS was not operational beginning at approximately 8:00 a.m. on January 28, 2025. While ECECD was able to access PMS at approximately 2:00 p.m. on Tuesday, January 28, 2025, there was uncertainty as to what to do once PMS reopened, creating heightened concern regarding stability of funding and general anxiety regarding ECECD’s ability to draw the funding needed with the threat of an impending federal payment pause or delay.
17. Access to funding portals used by ECECD, specifically, PMS, were restored the afternoon of January 28, 2025, but claims were processed much slower than usual. While claims submitted by ECECD are usually processed by PMS within 24 to 48 hours of submission, but ECECD’s claims submitted on Tuesday, January 28, 2025 were not processed until Friday, January 31, 2025, after additional prompting from ECECD staff.

18. Further delays have been communicated by the Department of Agriculture, who communicated to ECECD on January 28, 2025, that the accounting system used to fund Grant of Awards allotments for the CACFP program will not be online until February 19, 2025. ECECD submitted an additional funding request for FY24 in December 2024, but has not received notification that this request is processing. However, it is not clear whether the Grant of Awards system is not operational due to federal funding pauses.
19. Any additional pause, block, denial or delay in our federal funding will have significant impacts across the entire early childhood education and care ecosystem within the state of New Mexico.
  - a. ECECD currently employs 207 people whose positions are funded in whole or in part with federal dollars. 123 positions are entirely funded by federal funds.
  - b. In addition to ECECD employees, many New Mexicans who work in child care facilities, head starts, home visiting programs, and food programs across the state depend on federal funding to serve their clients and operate their businesses.
  - c. Thousands of New Mexican children and their families depend on ECECD's programs for food, child care, to access community resources, to receive early childhood education, and for early intervention services.
20. We continue to be concerned that the funding will again be delayed or denied because communications from federal agencies have not been limited regarding the possibility of future funding pauses, denials, and delays.
21. If the federal funding is again paused, blocked, denied or delayed suddenly, it is likely that ECECD will not be reimbursed for services already provided to the New Mexican public,

and it is likely that service providers who contract with ECECD will be dissuaded from contracting with ECECD for fear that they will not be reimbursed for services provided.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 4, 2025, at Santa Fe, New Mexico.

A handwritten signature in black ink, appearing to read "Elizabeth Groginsky", with a large, stylized loop at the end.

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Elizabeth Groginsky  
Cabinet Secretary  
New Mexico Early Childhood Education and Care  
Department